IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5217 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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CHENNURI GYANESHWAR SAYYARA - Petitioner(s)
Versus
ADMINISTRATIVE OFFICER NAGAR PRATHMIK SHIKSHAN SAMITI - Respondent(s)

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Appearance :
MR MUKESH H RATHOD for Petitioner(s) : 1,
MR AD OZA for Respondent(s) : 1,
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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 22/03/2006

ORAL JUDGMENT

1.In the present petition the petitioner who is aspiring for the post of Vidhya Sahayak (Hindi Medium) as a reserved category belonging to Socially and

Educationally Backward Class has challenged the decision of the respondent to fill up 23 vacancies by making appointments from amongst General Category Candidates. It is not in dispute that in the selection process taken in the year 2001, the petitioner was issued a call letter as a reserved category candidate belonging to SEBC category as per his merit marks derived as per formula evolved by the Government for appointment to the post of Vidhya Sahayak. However, entire quota of the said reserved category was filled up through appointments from candidates having higher merit marks than the petitioner.

2. Grievance of the petitioner however was that there were as many as 23 vacancies for Schedule Caste. For want of availability of candidates belonging to the said category, respondents approached the Government and obtained an order to de-reserve such vacancies. The appointments of 23 general category candidates were made pursuant to the said permission granted by the Government. It is the case of petitioner that petitioner should have been considered for the said de-reserved vacancies instead of granting appointments to general category candidates.

3.The respondents have opposed this petition through filing affidavit in reply and through thelearned advocate. It is contended that entire quota for Schedule Caste was exhausted. The petitioner did not come within the merit marks, he therefore may not secure appointment. On the other hand as per the permission granted by the Government, 23 vacancies mainly of ST candidates were de-reserved and duly appointed by General category candidates according to their merits. It is not in dispute that petitioner received 58.77% merit marks. It is stated by the learned advocate for the respondent that last of the general category candidates to be appointed against such de-reserved vacancies had received 62.99% merit marks. Additionally, I also find that the petitioner has not laid any foundation for challenging the decision of the Government. No material is placed on record to suggest that there was any error in permitting the respondent to fill up the vacancies by General Category Candidates. Though the learned advocate for the petitioner orally submitted that respondent did not point out to the Government that the petitioner was placed in the waiting list, there is no material on record to substantiate the said claim. In

that view of the matter, it is not possible to accept the request of the petitioner to strike down the action of the respondent. The petition is therefore, rejected. Rule is discharged with no order as to costs. Interim relief is vacated.

(Akil Kureshi,J.)

(raghu)